

RESOLUTION 25-2005
AN ORDER ABANDONING A COUNTY STREET AND ALLEYS

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the “Board”), by Steve Marks, Laura Marks, Roberts Marks, Darrell Miller, Larry Bloxsom, Ben Grace, David Leitheiser, Brent Farrell and Sharon Grace on the 22nd day of April, 2005. This petition requested the abandonment of a certain Jefferson County street in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of a street within the original townsite of Clancy, Jefferson County, Montana. The description of the subject County street is set forth as follows:

An alley located in Block 16 Haynes addition in Clancy, Montana. Said alley is located between lots 1, 2 3, and 6 running north and south. Said alley is land-locked by David Leitheiser and Marks Ranch. Upon abandonment, that portion of the alley lying south of lot line 2 & 3 would go to Leitheiser; the portions that lie north of lot line 2 & 3 would go to Marks Ranch.

An alley that lies in Block 8 of Haynes addition in Clancy, MT runs east and west splitting Block 8 in half. Said abandoned alley lies between property owned by Ben & Sharon Grace, Marks Ranch and The Clancy United Methodist Church. Upon abandonment, said alley would be divided evenly to adjoining property owners that are common with the ally.

A portion of Cherry Street that lies on the north side of lots 26 & 25, Block 8 of Haynes addition. Said portion to be closed is fifteen feet (15') wide and runs the entirety of lots 26 & 25. Said abandoned property to be deeded to Ben & Sharon Grace.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the

necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Notbohm and Ben Sautter, Road Supervisor, to conduct the investigation. On June 1, 2005, Commissioner Notbohm and Ben Sautter reported that they investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Commissioner Notbohm's and Ben Sautter's investigation. Commissioner Lythgoe moved to approve the closure of said alleys and street; hereinafter described:

An alley located in Block 16 Haynes addition in Clancy, Montana. Said alley is located between lots 1, 2 3, and 6 running north and south.

An alley that lies in Block 8 of Haynes addition in Clancy, MT runs east and west splitting Block 8 in half.

A portion of Cherry Street that lies on the north side of lots 26 & 25, Block 8 of Haynes addition. Said portion to be closed is fifteen feet (15') wide and runs the entirety of lots 26 & 25.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Steve Marks, Laura Marks, Roberts Marks, Darrell Miller, Larry Bloxsom, Ben Grace, David Leitheiser, Brent Farrell and Sharon Grace is hereby granted subject to the following conditions:

- a) that the Petitioners recognize that no owner shall ever claim or attempt to claim that any portion of said street constitutes a "lot" or "parcel", distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;

- b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;
- c) that Jefferson County shall retain full utility rights, if any.

2. That the portion of the said Jefferson County street which is abandoned by this

Order is more particularly described as:

An alley located in Block 16 Haynes addition in Clancy, Montana. Said alley is located between lots 1, 2 3, and 6 running north and south.

An alley that lies in Block 8 of Haynes addition in Clancy, MT runs east and west splitting Block 8 in half.

A portion of Cherry Street that lies on the north side of lots 26 & 25, Block 8 of Haynes addition. Said portion to be closed is fifteen feet (15') wide and runs the entirety of lots 26 & 25.

DATED this 26th day of July, 2005.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER